

REMARKS

Claims 1-40 are pending in the application and are currently rejected or objected to. Claims 1-2, 5-7, 9, 12, 18-19 and 22-23 are currently amended. Claim 21 is cancelled. In light of the amendments and remarks herein, reconsideration of claims 1-20 and 22-40 is respectfully requested.

Amendments to the Specification

The Specification has been amended to address the Examiner's objections. No new matter has been added to the Specification.

Amendments to the Claims

While Applicants believe that the previously presented claims are patentable over all of the art cited in the Office Action as well as all other references submitted by Applicants, the claims have nonetheless been amended as follows. The amendments are made without prejudice or disclaimer, and Applicants reserve the right to pursue the original scope of the claims as provided prior to the cancellation or amendments, such as through continuation practice.

Claim 1 is amended to delete the requirement that the first radiation emitting element irradiate the oral cavity with phototherapeutic radiation along multiple predetermined directions and add the elements of now-cancelled dependent claim 21. Support for the amendment is found throughout the specification and in the original claims.

Claim 2 is amended to recite first and second radiation emitting elements that emit radiation in multiple directions. Support for the claim can be found throughout the specification, including at paragraphs 81-85.

Claim 5 is amended to correct the language of the claim.

Claims 6, 7, 9, 12 and 19 are amended to provide proper antecedent basis for the term "at least one radiation emitter."

Claims 22 and 23 are amended to correct a problem with the antecedent basis for the term “controller” resulting from the amendments to claims 1 and 21.

As such, the amendments to claims 1-2, 5-7, 9, 12, 18-19 and 22-23 do not add any new matter.

Double Patenting

The Applicants gratefully acknowledge the Examiner’s decision to tentatively withdraw the provisional obviousness-type double patenting rejections.

Claim Rejections - 35 U.S.C. § 112

Claim 5 stands rejected as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regards as the invention. Applicants have amended Claim 5 accordingly.

Claim Rejections - 35 U.S.C. § 102

Claims 1-5, 7-9, 23, 28-33, 35 and 39-40

Claims 1-5, 7-9, 23, 28-33, 35 and 39-40 stand rejected under 35 U.S.C. § 102(b) as being anticipated by WO 98/06456 to Chen et al. (herein “Chen”). These claims are novel, however, because Chen fails to disclose all of the elements recited in the claims. For example, Claim 1 recites an apparatus having “a motion sensor and controller which controls the at least one radiation emitting element based on signals from the motion sensor.”

In comparison, Chen does not disclose the device as claimed. Chen does not disclose sensors generally, and does not disclose a motion sensor in particular.

Claims 2-5, 7-9, 23, 28-33, 35 and 39-40 are novel for at least the same reasons that Claim 1 is novel. Accordingly Claims 1-5, 7-9, 23, 28-33, 35 and 39-40 are novel and patentable over Chen.

Claims 1-9, 31, 34 and 36-38

Claims 1-9, 31, 34 and 36-38 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 6,443,978 to Zharov (herein "Zharov"). These claims are novel, however, because Zharov fails to disclose all of the elements recited in the claims. For example, Claim 1 recites an apparatus having "a motion sensor and controller which controls the at least one radiation emitting element based on signals from the motion sensor."

In comparison, although Zharov discloses "biosensors" for other purposes, Zharov does not disclose a motion sensor for use with the device. (See Zharov col. 6, lines 5-18.)

Claims 2-9, 31, 34 and 36-38 are novel for at least the same reasons that Claim 1 is novel. Accordingly Claims 1-9, 31, 34 and 36-38 are novel and patentable over Zharov.

Claims 1, 10-13, 15, 17 and 38

Claims 1, 10-13, 15, 17 and 38 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,862,771 to Muller (herein "Muller"). These claims are novel, however, because Muller fails to disclose all of the elements recited in the claims. For example, Claim 1 recites an apparatus having "a motion sensor and controller which controls the at least one radiation emitting element based on signals from the motion sensor."

In comparison, Muller does not disclose the device as claimed. Muller discloses a device that detects biological deposits but that does not include a motion sensor.

Claims 10-13, 15, 17 and 38 are novel for at least the same reasons that Claim 1 is novel. Accordingly Claims 1, 10-13, 15, 17 and 38 are novel and patentable over Muller.

Claims 1, 10-13, 15 and 18-19

Claims 1, 10-13, 15 and 18-19 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 6,239,442 to Iimura (herein "Iimura"). These claims are novel, however, because Iimura fails to disclose all of the elements recited in the claims. For example, Claim 1 recites an

apparatus having “a motion sensor and controller which controls the at least one radiation emitting element based on signals from the motion sensor.”

In comparison, Iimura does not disclose the device as claimed. Iimura does not disclose the use of sensors generally, and does not disclose a motion sensor in particular.

Claims 10-13, 15 and 18-19 are novel for at least the same reasons that claim 1 is novel. Accordingly Claims 1, 10-13, 15 and 18-19 are novel and patentable over Iimura.

Claims 1, 22, 24 and 26

Claims 1, 22, 24 and 26 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 6,572,637 to Yamazaki et al. (herein “Yamazaki”). These claims are novel, however, because Yamazaki fails to disclose all of the elements recited in the claims. For example, cClaim 1 recites an apparatus having “a motion sensor and controller which controls the at least one radiation emitting element based on signals from the motion sensor.”

In comparison, Yamazaki does not disclose the device as claimed. Yamazaki also does not disclose a motion sensor.

Claims 22, 24 and 26 are novel for at least the same reasons that cClaim 1 is novel. Accordingly claims 1, 22, 24 and 26 are novel and patentable over Yamazaki.

Claim Rejections - 35 U.S.C. § 103

Claim 20

Claim 20 stands rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,862,771 to Muller (herein “Muller”) in view of U.S. Patent 6,273,884 to Altshuler et al. (herein “Altshuler”). Claim 20 is not obvious, because neither Muller nor Altshuler discloses the invention as claimed, including all of the limitations of claim 1.


CONCLUSION

In summary, the above-identified patent application has been amended and reconsideration is respectfully requested for all the reasons set forth above. In the event that the Examiner deems that the amendments and remarks do not overcome the stated grounds for rejection, the Applicants kindly request that the Examiner telephone the undersigned representative to discuss any remaining issues.

Respectfully submitted,

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